



Issue Date: 15 March 2006

CASE No. 2006-STA-5

DARRYL BLACK,
Complainant,

v.

UNITED PARCEL SERVICE,
Respondent.

RECOMMENDED ORDER APPROVING SETTLEMENT

The above-captioned case arises under the Surface Transportation Assistance Act (STAA), as amended, 49 U.S.C. Section 31105 and the Regulations found at 29 C.F.R. Part 1978. The parties have filed a request for approval of their settlement agreement and dismissal of the complaint with prejudice.

Pursuant to section 31105(b)(2)(C) of the STAA, “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s findings “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ.” 29 C.F.R. § 1978.111(d)(2). Under the STAA, a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec’y Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board as the case may be.” *Id.*

I have received and carefully reviewed the parties’ settlement agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. Pursuant to 29 C.F.R. § 1978.109(c), however, the Administrative Review Board must issue the final order of dismissal of a STA complaint resolved by settlement. See *Howick v. Experience Hendrix, LLC*, ARB No. 02-049, ALJ No. 2000-STA-32 (ARB Sept. 26, 2002).

However, the parties must be made aware that the agreement encompasses the settlement of matters under laws and regulations other than the STAA. *See* para. 2(B). The Board's authority over settlement agreements is limited to such statutes as are within the Board's

jurisdiction and is defined by the applicable statute. Therefore, only the terms of the agreement pertaining to the Complainant's STAA claim are approved. *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56 (ARB Apr. 30, 2003).

Accordingly, **IT IS RECOMMENDED** that the settlement of matters strictly within the jurisdiction of the Administrative Review Board be **APPROVED** pursuant to the agreement and that the Board **DISMISS** the complaint with prejudice.

SO ORDERED.

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THOMAS F. PHALEN, JR.
Administrative Law Judge

NOTICE OF REVIEW: The administrative law judge's Recommended Order Approving Settlement, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. *See* 29 C.F.R. § 1978.109(a); Secretary's Order 1-2002, ¶4.c.(35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge's Recommended Order Approving Settlement, the parties may file briefs with the Administrative Review Board ("Board") in support of, or in opposition to, the administrative law judge's order unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.